THE REPUBLIC OF KENYA

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THE ANATOMY ACT

CAP. 249

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Anatomy Act

Cap. 249

Legislation as at 25 August 1967

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ANATOMY ACT

CAP. 249

Assented to on 18 August 1967

Commenced on 25 August 1967

An Act of Parliament to regulate the practice of anatomy

1. Short title

This Act may be cited as the Anatomy Act.

2. Interpretation

In this Act, except where the context otherwise requires—

"**approved school of anatomy**" means any school, college, hospital or other institution at which the practice of anatomy is authorized under section 3 of this Act;

"**body**" means human body;

"**examine anatomically**" includes dissect;

"**licensee**" means a person licensed to practise anatomy under section 4 of this Act;

"**medical officer**" means a public officer who would, if he applied, be entitled to be registered as a medical practitioner;

"**receive**" includes obtain possession of and be in possession of.

3. Licensing of practice of anatomy

(1) The Minister may grant a licence to practise anatomy in an approved school of anatomy upon such conditions, for such period and subject to revocation in such manner, as is therein expressed to—

(a) a medical practitioner;

(b) a medical officer;

(c) a professor or teacher of anatomy, medicine or surgery; or

(d) a person registered as a student of any approved school of anatomy.

(2) A licence issued under this section shall, during the period of its validity and subject to its terms and to this Act, entitle the licensee to examine anatomically in an approved school of anatomy, and to receive for the purpose of such examination, any dead body.

(3) Any person who—

(a) not being a licensee, examines anatomically, or receives for the purpose of anatomical examination, any dead body; or

(b) being a licensee, examines anatomically any dead body at a place other than an approved school of anatomy, or practises anatomy otherwise than under and in accordance with the terms of his licence,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and such imprisonment.

4. Approval of schools of anatomy

(1) The Minister may issue a written authority authorizing the practice of anatomy by licensees in a particular school, college, hospital or other institution.

(2) An authority issued under this section shall be issued subject to such conditions as the Minister may think fit, and may be revoked by the Minister at any time.

(3) Any person who, being the owner, occupier or person in charge of any premises which are not an approved school of anatomy, permits anatomy to be practised therein shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment.

(4) Any person who, being the owner, occupier or person in charge of an approved school of anatomy, permits anatomy to be practised therein by any person who is not a licensee, or who permits anatomy to be practised therein by licensees otherwise than under and in accordance with the terms of the authority issued in respect of that school, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment:

Provided that it shall be a defence for a person charged with an offence under this subsection to prove that the offence occurred without his consent or connivance and that he exercised all due diligence to prevent it.

5. Authority for anatomical examination of dead body

(1) If any person, either in writing signed by him at any time or orally in the presence of two or more witnesses during the illness whereof he died—

(a) has directed that his body after his death be examined anatomically; or

(b) has nominated any licensee to examine his body anatomically after his death,

the person lawfully in possession of his body after his death shall, if such direction or nomination is made known to him before he has disposed of the body, in writing authorize the body to be examined anatomically or, in the case of a nomination, in writing authorize the licensee nominated to examine the body anatomically, in either case in an approved school of anatomy, unless the person lawfully in possession of the body has reason to believe that the direction or nomination was withdrawn by the deceased, or that the surviving spouse, or the nearest known relative, or one or more of the nearest known relatives of the same degree, of the deceased objects to the body being examined anatomically.

(2) Without prejudice to subsection (1) of this section the person lawfully in possession of the body of a deceased person (not being an undertaker or other person entrusted with the body of the person only of its interment or cremation) may, subject to section 7 of this Act, authorize the body to be examined anatomically in an approved school of anatomy unless such person has reason to believe that the deceased had, either in writing signed by him or orally in the presence of two or more witnesses, expressed an objection to his body being examined anatomically after his death, and had not withdrawn it in the like manner, or that the surviving spouse or any relative of the deceased objects to the deceased's body being examined anatomically.

6. Authority for anatomical examination of body of person dying in public institution

(1) The Minister may in writing grant authority to—

(a) the Commissioner of Prisons, in respect of any prison; or

(b) the Director of Medical Services, in respect of any hospital; or

(c) the medical officer concerned with any public institution wholly or partly maintained from public funds;

(d) the officer in charge of any prison in which persons condemned to death are imprisoned,

to authorize the body of any person who dies in prison, hospital, institution or prison as the case may be, to be examined anatomically in an approved school of anatomy.

(2) An authority shall not be given under this section if to the knowledge of the person who may give the authority the deceased person has expressed the desire, either in writing signed by him or orally in the presence of two or more witnesses, that his body after death shall not be examined anatomically or if the surviving spouse or nearest known relative of the deceased person objects to the body being examined anatomically.

7. Offences where no authority given

Any person who—

(a) being lawfully in possession of a dead body, delivers up such possession to another person knowing or having reason to believe that it will be examined anatomically, otherwise than as provided in section 5 or section 6 of this Act; or

(b) receives for anatomical examination, or examines anatomically, any dead body in respect of which an authority has not been given under section 5 or section 6 of this Act,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

8. No anatomical examination if inquest likely to be required

(1) Notwithstanding sections 5 and 6 of this Act, no person shall examine a dead body anatomically, or permit or authorize a dead body to be examined anatomically if he has reason to believe that an inquest, investigation or inquiry into the death may be required to be held under Part XII of the Criminal Procedure Code (Cap. 75).

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

9. Authorization sufficient authority for anatomical examination

An authorization given under section 5 or section 6 of this Act in respect of a dead body shall be sufficient authority for that body to be examined anatomically in accordance with this Act.

10. Conditions to be complied with before body examined anatomically

(1) The body of a deceased person shall not be examined anatomically or removed for anatomical examination from the place where the person died unless —

(a) at least twenty-four hours' written notice of intended anatomical examination has been given to the Director of Medical Services; and

(b) the person intending to examine the body or the person intending to remove the body for anatomical examination, has obtained a death certificate in accordance with subsection (2) of this section; and

(c) the person removing the body has first placed it in a decent coffin.

(2) The death certificate required for the purposes of subsection (1)(b) of this section shall state the cause of death and shall be signed—

(a) by the medical practitioner or medical officer who was present at the death or attended the deceased person during his last illness (not being the person referred to in subsection (1)(b) of this section); or, where there is no such person,

(b) by a medical practitioner or medical officer called in after the death to view the body, who shall in the certificate state the manner or cause of death according to the best of his knowledge and belief.

(3) Where the death certificate is obtained by the person who removes the body for anatomical examination, such person, on delivering the body for anatomical examination, shall deliver the certificate to the person who receives the body.

(4) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

11. Documentation

(1) Every person who receives the body of a deceased person for anatomical examination shall, within twenty-four hours thereafter—

(a) deliver to the Director of Medical Services the following documents—

(i) the death certificate referred to in section 10 of this Act; and

(ii) a return stating at what day and hour he received the body and, where it was delivered to him, the name and address of the person who delivered it, the date and place of death, the sex and (as far as is known at the time) the name, age and last place of abode of the deceased person; and

(b) enter or cause to be entered, in a book to be kept by him for that purpose, the aforesaid particulars and such other particulars as the Director of Medical Services may require, and insert in the book a copy of the aforesaid death certificate.

(2) Any person who fails to comply with any of the requirements of this section shall be guilty of an offence and liable to a fine not exceeding three thousand shillings.

12. Disposal of body anatomically examined, and notice thereof

(1) Every person who receives the body of a deceased person for anatomical examination shall, except as otherwise provided in subsection (3) of this section, make provision that such body, after being examined anatomically, shall be decently cremated, or be decently interred in consecrated ground or in some public burial ground devoted to persons of the deceased person's religion.

(2) After cremation or interment, the person who received the body for anatomical examination shall notify the Director of Medical Services of the cremation or interment in writing within six weeks, or such longer period as the Minister may allow, after the day on which he so received the body.

(3) Where the body which is anatomically examined is the body of a person who has been executed in pursuance of a death warrant issued under section 329 of the Criminal Procedure Code (Cap. 75), the person to whom the warrant was directed shall make provision that the body, after being anatomically examined, shall be disposed of in accordance with the directions contained in the warrant.

(4) Any person who fails to comply with subsection (1) or subsection (2) of this section shall be guilty of an offence and liable to a fine not exceeding three thousand shillings.

13. Illegal removal of parts of body

Any person who—

(a) takes or removes from a dead body any part of the body before the body is received into an approved school of anatomy; or

(b) takes or removes from an approved school of anatomy, except for cremation or burial, any part of a dead body; or

(c) receives part of a dead body which has been taken or removed in contravention of this section,

shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and such imprisonment:

Provided that this section shall not apply to a licensee who has been authorized in writing by the Director of Medical Services to take or remove, or to receive, a part of a dead body for educational, scientific or research purposes.

14. Inspection and information

(1) For the purpose of securing compliance with this Act, it shall be lawful for the Director of Medical Services or any person authorized by him in writing to do so, or any police officer of or above the rank of Sub-Inspector—

(a) to enter without warrant and inspect at any time any approved school of anatomy and therein to examine any dead body which has been received for anatomical examination and to inspect any book which is required to be kept under section 11(1)(b) of this Act;

(b) to require any person who has authorized a dead body to be examined anatomically, or any person who has examined anatomically a dead body, or any person who has received a dead body for the purpose of examining it anatomically, to give such information and produce such documents as he may reasonably require for the purpose of ascertaining whether this Act has been complied with.

(2) Any person who resists, hinders or obstructs any person acting in pursuance of subsection (1) of this section, or who on a requirement being made under subsection (1)(b) of this section, wilfully withholds any information, or gives any information which he knows or has reason to believe is false or misleading, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment:

Provided that no person shall be required to answer any question the answer to which may expose him to any criminal charge, penalty or forfeiture.

15. Despatch of bodies between countries

(1) Where the Minister is satisfied that arrangements of a reciprocal nature or effect have been or will be made by the competent authority in a foreign country, he may make arrangements with that authority—

(a) for the despatch from Kenya to that country of dead bodies for anatomical examination in a school of anatomy established under the laws of that country; and

(b) for the reception in Kenya of dead bodies despatched from that country for anatomical examination in an approved school of anatomy.

(2) Any arrangements made under this section shall include a requirement that —

(a) the person in charge of the school of anatomy wherein a body despatched from Kenya is to be examined anatomically shall make provision that the body, after being anatomically

examined, shall be decently cremated, or decently interred in consecrated ground or in some public burial ground in use for persons of the deceased person's religion; and

(b) that a certificate of the cremation or interment of the body shall be transmitted to the Director of Medical Services within twelve weeks after the day on which the body was received in the foreign country for anatomical examination.

(3) It shall be lawful for any person authorized in writing by the Director of Medical Services to receive a dead body for the purpose of—

(a) despatching it to a foreign country; or

(b) conveying it to an approved school of anatomy,

in pursuance of arrangements made under this section:

Provided that no dead body shall be despatched or conveyed by the person so authorized unless it is accompanied by a death certificate given under section 10 of this Act or its equivalent under the law of the foreign country.

16. Regulations

The Minister may make regulations generally for the better carrying out of the provisions and purposes of this Act, and without prejudice to the generality of the foregoing, any such regulations may make provision for—

(a) the conduct, equipment, inspection and control of approved schools of anatomy;

(b) prescribing the forms of application, authority, licence, certificate and return to be used under this Act; and

(c) prescribing the fees to be paid on the grant of a licence or authority.

17. Savings

Nothing in this Act shall apply to or affect—

(a) the removal, disinterring or examination of a dead body under sections 386, 387 and 388 of the Criminal Procedure Code (Cap. 75); or

(b) the provisions of the Births and Deaths Registration Act (Cap. 149); or

(c) the provisions of the Human Tissue Act (Cap. 252).